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The time period for reply, if any, is set in the attached communication.

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte SRINIVASA SESA SOMA SEKHAR MUPPIDI and  
GOPINATH RAMANAN

Appeal 2008-0643  
Application 10/071,951  
Technology Center 2600

Oral Hearing Held: February 14, 2008

Before ANITA PELLMAN GROSS, MAHSHID D. SAADAT, and JOHN A. JEFFERY, Administrative Patent Judges

ON BEHALF OF THE APPELLANTS:

DAVID H. VOORHEES, ESQUIRE  
MEREK, BLACKMON & VOORHEES, LLC  
673 S. WASHINGTON ST.  
ALEXANDRIA VA 22314

The above-entitled matter came on for hearing on Thursday, February 14, 2008, commencing at 10:23 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, 9th Floor, Alexandria, Virginia, before Janice A. Salas, Notary Public.

1 THE CLERK: Calendar Number 21, Mr. Voorhees.

2 JUDGE GROSS: Good morning.

3 MR. VOORHEES: Good morning. I'm going to briefly talk about  
4 what the importance of this case is and the difference between what the  
5 examiners -- what the examiner applied and what the claims -- what the  
6 invention is about.

7 The -- I can draw a small figure. The device of deVette that the  
8 examiner applied in nearly all the claims has a series of nodes that are  
9 connected by some wire and then it has a central network monitor that is the  
10 system that provides information to all of these nodes on the deVette  
11 network.

12 And this information is unidirectional, as deVette describes it, and  
13 each node will collect information from the preceding node and then send  
14 that information to the central network monitor.

15 The invention that we have, on the other hand, each node -- and say  
16 we only have two -- each node collects information from the adjacent node  
17 so that each node has a complete network map.

18 And as these nodes branch off to have other nodes, then these nodes  
19 will collect this information from these adjoining nodes and then each of  
20 these nodes will also collect that adjoining node information from the other  
21 nodes so each node will have a complete network map of the entire network  
22 configuration.

23 And that's important because if one of the network nodes gets  
24 reprovisioned or has -- and a technician either makes a programming error or  
25 a structural error in connecting wires or whatever it needs to do, the adjacent  
26 node will get that error information immediately, and unlike deVette, where

1 once an error is detected it has to go all the way around the network to the  
2 central network monitor, find out where that error occurred.

3 Whereas in our system as we've claimed it, the importance in it is you  
4 can find -- you can locate those errors quickly and they can be corrected  
5 quickly and prevent downtime on the network.

6 Got any questions?

7 JUDGE JEFFERY: I have a question for you, counsel. Is there  
8 anywhere in the claims that requires that each node map the *entire* network?  
9 I mean, I understand the central network monitor in the deVette reference  
10 does just that. I think that's not disputed.

11 MR. VOORHEES: Okay.

12 JUDGE JEFFERY: I think the examiner's position here is that well,  
13 the nodes in deVette look at their upstream neighbors, if you will, and they  
14 have a mapping capability with respect to those upstream nodes, and that  
15 seems to be the examiner's position with respect to the claim language.

16 You say that in the claimed invention that the nodes can map the  
17 entire network configuration. Is there anywhere in the claims that actually  
18 says that the *entire* network could be mapped by each node?

19 MR. VOORHEES: Well, in claim 1 the language that we've relied on  
20 -- we've noted it in our brief; we've noted it in our reply brief -- is that -- I  
21 believe it's the last section of claim 1.

22 It says, "Each node of a set plurality of optical nodes determining a  
23 network configuration having a topological map of network links  
24 corresponding to the discovered neighboring optical nodes."

25 And to buy that language, that -- since each node discovers its  
26 neighboring nodes and also discovers -- gets that information of the

1 neighboring nodes' neighboring nodes, then each node collects that entire  
2 topological map of the entire network.

3 JUDGE JEFFERY: Where's the word "entire" in the claim?

4 MR. VOORHEES: Well -- now, the claim does not have the word  
5 "entire" in it, but the -- but by the operation of the system, by the operation  
6 of the claim system, that is how it's going to work.

7 JUDGE JEFFERY: Well, the deVette reference -- the examiner  
8 pointed out to a particular passage in column 22 of deVette -- let me point  
9 you to that passage -- beginning at line 43 where it's discussing the  
10 connectivity reports of the various nodes and that the -- those connectivity  
11 reports are based on topology and connectivity data that's reported to a given  
12 node from its upstream nodes.

13 And, you know, it says 293 and 294, and in Figure 2A of the  
14 reference, 293 and 294 definitely corresponds with the upstream nodes of  
15 the given node, so that would suggest that you have some sort of mapping  
16 capability with respect to a particular node, at least with respect to its  
17 upstream nodes so the -- and I think the examiner's position was based on  
18 that passage.

19 MR. VOORHEES: Yes, and I specifically referenced this passage in  
20 our reply brief, and what -- okay. It says, "Each node connectivity report  
21 generated by a node to their record reflects only what topology and  
22 connectivity data has been reported to it by upstream nodes."

23 So it's only got -- got a portion of the network and what's been  
24 reported to it from upstream.

25 JUDGE JEFFERY: And would that be mapping information in your  
26 view, topology and connectivity data?

1 MR. VOORHEES: Topology may be mapping information.

2 Connectivity data is not necessarily.

3 JUDGE JEFFERY: Okay.

4 MR. VOORHEES: But the other -- I pointed out a specific point of  
5 this. The individual nodes do not contain the mapping processor of deVette.

6 The mapping processor is located in the central network monitor, and  
7 it sends this mapping information around to the nodes, but the individual  
8 nodes do not contain that information, and that is -- I think it's in the same  
9 paragraph that the examiner has provided.

10 JUDGE JEFFERY: Well, and certainly the central network monitor  
11 ultimately maps the network.

12 MR. VOORHEES: Yes, it does.

13 JUDGE JEFFERY: And that's clearly stated in the reference.

14 MR. VOORHEES: Yes, it does.

15 JUDGE JEFFERY: And I think the issue here is the breadth of the  
16 claim language, frankly, and whether or not the claim would nonetheless -- I  
17 realize how the invention works -- but whether the claim would nonetheless  
18 read on a situation where you're simply taking in mapping information,  
19 processing it from an upstream node or nodes -- more than one node -- and  
20 using that and even -- and not even saying in fact you're reporting it to a  
21 CNM ultimately.

22 Each node is doing that function. It's getting mapping information  
23 from another node or more than one node.

24 MR. VOORHEES: But the node itself is not -- does not keep that  
25 information to compare it to other nodes. The node only sends that  
26 information to the central processor.

1 JUDGE JEFFERY: And I understand your position, but isn't there an  
2 embodiment here where there is, in fact, a comparison made by a node? I'm  
3 referring to column 25 where it determines an error message and each node  
4 does a comparison of information that it receives from upstream nodes.

5 Isn't there some sort of analysis that's going on within the node itself?  
6 Column 25, lines 10 through 27, that paragraph.

7 I mean, it looks like the node does do some sort of analysis function.

8 MR. VOORHEES: Well, in this portion they're talking about the  
9 OSC processor.

10 JUDGE JEFFERY: Which is within the node, but another passage  
11 here I'd like to point out is column 22, beginning at line 55.

12 Basically, this is sort of the introduction to this particular embodiment  
13 where it discusses comparing a theoretical topology that's disseminated  
14 along the OSC with the actual connectivity of the network to -- so as to  
15 identify and isolate faults ultimately.

16 That's the idea. And as I understand it, that data gets reported down to  
17 the CNM for further overall network analysis and fault isolation and  
18 correction, but --

19 MR. VOORHEES: Yeah, but there is -- there is some difference in  
20 wording and definitions between the reference and what our specification  
21 says, and some of that is hard to match up on a one-to-one on what  
22 connectivity data is referred to in deVette and what we're talking about as  
23 the information the node collects and in our specification and our claims.

24 JUDGE JEFFERY: Well, the claim says, "Each node of a set  
25 plurality of optical nodes determining a network configuration having a  
26 topological map of network links."

1 And we've determined that a node takes in topological information  
2 from its upstream nodes. All I'm saying is why is that not a map? Why does  
3 that not read on that particular limitation that's critical here to claim 1.

4 MR. VOORHEES: Well, deVette does not -- deVette does not  
5 discover the downstream nodes. They only discover the upstream nodes.  
6 The claim requires that the discovered neighboring optical nodes which  
7 we've -- which in accordance with our specification that means both sides.

8 JUDGE JEFFERY: Well, I -- looking at the specification, the best I  
9 could find was in paragraph 19 on what -- how we're defining what a  
10 neighboring node is. Let me refer you to paragraph 19. Basically what you  
11 say is, "Each individual optical node 120 is coupled to adjacent" -- and then  
12 you have a parenthetical, "(neighboring)" nodes -- so on and so forth.

13 So it sounds like you're -- a neighboring node is an adjacent node, so  
14 the question would be, can deVette contemplate a neighboring node with  
15 only upstream nodes? That means can I have -- can I have a neighboring  
16 node that's only upstream? You know, would that be an adjacent node or  
17 does it have to be both upstream and downstream?

18 MR. VOORHEES: Well, okay. In the broad sense, you could have a  
19 two-node network, according to claim 1, but still, that transfer of  
20 information would have to go both ways, and in deVette, it's only  
21 unidirectional.

22 JUDGE JEFFERY: Okay.

23 MR. VOORHEES: So that's my --

24 JUDGE JEFFERY: Okay.

25 MR. VOORHEES: Anything else?

26 JUDGE GROSS: Anybody got questions?



1           No more questions.

2           Is that it?

3           MR. VOORHEES: I'm going to rely on my brief for the other  
4 independent claims and other dependent claims that we've argued that have  
5 much more detail of limitations than the ones we've been talking about.

6           JUDGE GROSS: Thank you very much. Have a good day.  
7 (Whereupon, the proceedings at 10:36 a.m. were concluded.)

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